

Dey's AWP; (2) by changing by changing both Dey and Roxane's AWP; and (3) by changing both Dey and Roxane's AWP, including the AWP for NovaPlus. While Dey has moved for summary judgment on all damages which consider both Dey and Roxane's prices, the pricing and categorization of Roxane's NovaPlus affects the damages alleged to have been caused by Dey in one of the United States' damage models. The United States did not disclose its NovaPlus theory of damages to Dey until the service of its expert reports on January 23, 2009, after the close of fact discovery. Dey has therefore not examined Ms. Stone or Ms. Helton on these issues.

Because the depositions of Ms. Stone and Ms. Helton requested by Roxane also impact the damages sought by the United States against Dey, to the extent this Court grants Roxane's motion, it should also permit Dey to attend the depositions and cross-examine the witnesses.

Pursuant to Local Rules 7.1(a)(2), counsel for Dey conferred with counsel for the United States by telephone on the morning of August 18, 2009 in a good faith effort to resolve or narrow the issues set forth herein, but were unable to reach an agreement.

Dated: August 19, 2009

Respectfully Submitted,

KELLEY DRYE & WARREN LLP

By: /s/Sarah L. Reid
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by causing to be sent, on August 19, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Sarah L. Reid

Sarah L. Reid